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November 25th, 1959

COCOM Document No. 3781B

COORDINATING COMMITTEERECORD OF DISCUSSIONONA BELGIAN PROPOSAL TO EXPORT ELECTRODES TO ROUMANIANovember 17th and 23rd, 1959

Present: Belgium (Luxembourg), Canada, France, Germany, Italy, Japan, Netherlands, United Kingdom, United States.

References: COCOM Documents Nos. 3735, 3757, 3770, 3771.

1. The CHAIRMAN drew the attention of the Committee to the Belgian proposal to export 15,000 kilos of electrodes to Roumania. He recalled that the Belgian authorities had originally invited Member Countries to give their opinion as to whether or not these electrodes were covered by the definition of Item 1661 (COCOM 3735) and that the Belgian Delegate had subsequently asked for this case to be considered as an exceptions request if it were the Committee's opinion that the electrodes were under embargo (COCOM 3757). The Belgian Delegate had given further details of the end-use to which the electrodes would be put (COCOM 3770) and the United States Delegation had given their opinion that the electrodes were covered by the definition of Item 1661 in COCOM 3771. He invited Delegates to give the views of their Governments, first as to whether or not the electrodes in question were caught by embargo and secondly, if so, their views on the exception request.

2. The UNITED STATES Delegate said that the views of his authorities on the interpretation question were set out in COCOM 3771. He had not yet received instructions on the exception request and in this connection he recalled that he had already pointed out to the Committee that there might be some delay before he could state his authorities' final position.

3. The UNITED KINGDOM Delegate stated that he had put two questions to the Belgian Delegation concerning this matter. The first question concerned the composition of the electrodes. In the Belgian memorandum (COCOM 3735) a list of alloys was given, but this list totalled only 91.2%. His authorities had asked what other materials were involved and the Belgian Delegation had replied that the remaining 8.8% consisted of the external coating of the electrodes, which was of potassium silicate. The second question concerned the specification of each alloy as a percentage of the materials excluding the coating. The Belgian Delegate had replied that this percentage could be obtained by multiplying each of the percentages listed by  $\frac{100}{91.2}$ . Thus in the case of ferrosilicon  $1.4 \times \frac{100}{91.2}$  equalled 1.53%.

4. The NETHERLANDS Delegate said that his authorities were of the opinion that according to the composition and resistance of these electrodes their export to the Sino-Soviet Bloc would not defeat the embargo of nickel-based alloys. For this reason the Netherlands, pending a possible redefinition of Item 1661 during the List Review, did not raise an objection to the export to Roumania according to the "accident of definition" procedure.

5. The FRENCH, GERMAN, ITALIAN and JAPANESE Delegates stated that their authorities did not consider that the electrodes were covered by Item 1661. Since the electrodes were coated they were therefore regarded as finished products and not as semi-finished goods in terms of Interpretative Note No. 6.

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6. The BELGIAN Delegate drew the attention of the Committee to the final sub-paragraph of Interpretative Note No. 6:

"The special attention of Governments is drawn to the risk that the embargo might be defeated by the export of non-listed forms alleged to be finished products but representing in reality crude forms or semi-finished forms."

His authorities felt that it was beyond question that these electrodes were finished products and therefore not covered by the embargo. Moreover they were to be used for soldering cast iron, a material which itself was not a strategic product.

7. The UNITED STATES Delegate commented, with reference to the last point made by his Belgian colleague, that the question of end-use related to the exceptions request which was still under consideration by his authorities. With regard to other comments which had been made, the Delegate pointed to that part of the Note which referred to "semi-fabricated forms (whether or not coated ...)". Moreover, he contended that the inclusion of "bare welding rods" did not in itself exclude coated welding rods or electrodes. Finally, when Interpretative Note No. 6 was drafted, his authorities had made it clear that they did not regard it as an exhaustive list.

8. The GERMAN Delegate said that the crucial question was whether sheathed electrodes were regarded as finished or semi-finished products. If they were semi-finished products they were caught by the embargo. He did not consider that Interpretative Note No. 6 was particularly relevant in this case. His authorities considered that these electrodes were not covered by the provisions of Item 1661 itself. In conclusion the Delegate observed that the Member Countries who did not consider these electrodes to be caught by the embargo might already have permitted them to be exported. If the final opinion of the United States authorities were not the same as the majority of the Committee, it might be useful to study this question afresh in order to achieve a uniform application of Item 1661.

9. The BELGIAN Delegate pointed out that electrodes were specifically mentioned in the Embargo List prior to the 1958 List Review. The fact that mention of them had been deleted would seem to indicate a desire to free them from embargo.

10. The UNITED STATES Delegate said that it was clear that some of the views that had been expressed seemed to be based on a more literal reading of Interpretative Note No. 6 that the United States authorities had adopted. The United States might wish to propose the specific addition of coated or sheathed welding rods or electrodes to the embargo list.

11. It was agreed to hear further views on November 23rd.

12. On November 23rd the UNITED KINGDOM Delegate informed the Committee that, in view of the additional information supplied by the Belgian Delegation, his authorities did not consider the electrodes in question to be caught by the definition of Item 1661 and the question of the exceptions case did not therefore arise.

13. The CANADIAN Delegate stated that electrodes would appear to be more properly classified as a finished product rather than a crude or semi-fabricated form of nickel based alloy. In the absence of specific mention of sheathed electrodes in Item 1661(b) and in Interpretative Note No. 6 his authorities believed there was reasonable doubt that there was intent to continue to retain this material under embargo. The purpose of the embargo of nickel based alloys was to prevent the supply of alloys which would be used for strategic purposes. Unless it could be shown that the sheathed electrodes had strategic implications, it was the Canadian view that this material should not be subject to embargo.

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14. The UNITED STATES Delegate said that his authorities, having taken account of the interpretations described by some Delegations at the last meeting and the information provided by the Belgian Delegation as to the end-use to which the electrodes would be put, raised no objection to this particular shipment. This was without prejudice to their position with respect to the embargo coverage.

15. The BELGIAN Delegate expressed his thanks for the favourable views that had been given. In the future the Belgian authorities would, for similar cases, reserve the right to act according to the conclusions resulting from the positions adopted by the various Delegations during the present debate so that no discrimination against their own country would result.

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